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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,915	05/31/2005	Stein Kuiper	NL 021189	6560
24737	7590	08/22/2008	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			DANIELS, MATTHEW J	
P.O. BOX 3001			ART UNIT	PAPER NUMBER
BRIARCLIFF MANOR, NY 10510			1791	
MAIL DATE	DELIVERY MODE			
08/22/2008	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/536,915	KUIPER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	MATTHEW J. DANIELS	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 31 May 2005.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) \_\_\_\_\_ is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) 1-19 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Lack of Unity***

1. Restriction is required under 35 U.S.C. 121 and 372.
2. This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.
3. In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-15, drawn to a process or method.

Group II, claim(s) 16, drawn to an optical lens.

Group III, claim(s) 17-19, drawn to an apparatus.

4. The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: (a) the special technical feature of this application fails to define a contribution which the above inventions make over the prior art (see further explanation below), therefore, the inventions lack unity, and (b) Claim 16 does not recite any portion of the special technical feature of Claims 1 or 17, thus there is an a priori lack of unity.

5. The special technical feature of Claims 1 and 17 is the combination of a first fixable liquid separated from a first fluid and a second fluid by meniscuses and electrically varying the curvature of the first and second meniscuses and the fixable liquid is fixed when the second meniscus has a curvature with a desired configuration.

6. However, this feature would have been obvious over Berge (Eur. Phys. J. E, Vol. 3 (2000) pp 159-163) in view of Stoy (US 3,691,263). Berge teaches that it is known to provide

variable focal lenses controlled by an external voltage in an electrowetting process (title). In particular, Berge teaches a lens material (Fig. 1A, item 1) separated from a first liquid and a second material by two meniscuses (Fig. 1B, note double convex configuration of lens). Berge changes the shape of the lens by deforming the interface, thus changing the focal length (page 160, left column), using an electrode and an applied voltage (page 159, right column). Berge is silent to the second fluid and electrically varying the second meniscus, and the use of a fixable liquid which becomes fixed in shape in a desired configuration. However, Stoy teaches that it is known to shape a lens using two liquids (L1, L3) and two meniscuses (Fig. 7) to provide a lens configuration similar to that suggested by Berge. In particular, Stoy teaches that L2 is a monomer (3:4-5) which is cured or fixed (Examples 14-17). In view of Berge's teaching to provide a first liquid as a shaping means, and the use of a second shaping surface (Fig. 1B), and Stoy's teaching that two liquid shaping surfaces may be used to shape a lens, it would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention to incorporate the process of Stoy into that of Berge by substituting a second liquid for the second shaping surface of Berge disclosed in Fig. 1B in order to provide the capability to simultaneously change both lens surfaces and solidify the lens into a usable shape.

7. Restriction for examination purposes as indicated is proper because all these inventions listed in this action lack unity for the reasons set forth above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;

- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

8. **Applicant is advised that the reply to this requirement to be complete must include**

**(i) an election of a invention to be examined** even though the requirement may be traversed (37 CFR 1.143) and **(ii) identification of the claims encompassing the elected invention.**

9. The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

10. If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

11. Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the

inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

12. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

13. A telephone call was made to Michael Marion on 20 August 2008 to request an oral election to the above restriction requirement, but did not result in an election being made.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW J. DANIELS whose telephone number is (571)272-2450. The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew J. Daniels/  
Primary Examiner, Art Unit 1791  
8/20/08